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LICENSING & REVIEW

Ex parte: Bobbie J. Bowden
Serial No.: 08/050,527
Filed: April 19, 1993
Title: AUTOMATIC DRILLING SYSTEM

This is in regard to the petition filed on May 20, 1993 for the grant of a retroactive license for foreign filing under 35 U.S.C. 184 in the above identified application. The petition is denied at this time.

The above noted statute requires that a foreign filing license be obtained in all circumstances, not just when there is sufficient time or when it is convenient. 37 CFR, Part 5 provides for expedited handling of petitions for foreign filing license under which a petition will be considered within a maximum of three working days. Further, in many cases where an emergency (such as a pending statutory bar date) is made known, the petition can be handled on a same day basis. In addition, the petition need only include a copy of the material that is to be foreign filed, i.e. it need not be in executed application form.

Concerning the explanation under 37 CFR 5.25(a)(3)(iii), it is not entirely clear from the declaration of Donald R. Comuzzi in support of the petition as to what consideration, if any, was given to the need for a foreign filing license before proceeding with the Canadian filing at issue, and if no consideration was given why was it not given. Also, it is not clear as to his knowledge and understanding of the statute and related rules and procedures for obtaining the required license, or what attempts, if any, were made to inquire of this Office whether a license could be obtained in time to allow proper filing in Canada. No determination of error in the proscribed filing can be made without such information.

Accordingly, the requirements of 37 CFR 5.25(a)(3)(iii) not having been fully met, the petition is denied and in the absence of any response within 60 days of the date of this letter, such denial will be made final and final action under 35 U.S.C. 185 will be taken. Extension of time may be had under 37 CFR 1.136(a).



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